

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC. 20554**

In the Matter of)	
)	
2002 Biennial Regulatory)	MB Docket No. 02-277
Review – Review of the)	
Commission’s Broadcast)	
Ownership Rules and Other Rules)	
Adopted Pursuant to Section 202)	
of the Telecommunications Act)	
of 1996)	
)	
Cross – Ownership of Broadcast)	MM Docket No. 01-235
Stations and Newspapers)	
)	
Rules & Policies Concerning)	MM Docket No. 01-317
Multiple Ownership of Radio)	
Broadcast Stations in Local)	
Markets)	
)	
Definition of Radio Markets)	MM Docket No. 00-244
)	

To: The Commission

Additional Comments from Nickolaus E. Leggett

The following are additional comments from Nickolaus E. Leggett, an amateur radio operator (call sign N3NL), inventor, and a certified electronics technician. Mr. Leggett is one of the petitioners in RM-9208 which led to the establishment of low power FM (LPFM) broadcasting. These comments address the legitimacy of private enterprise and the opportunities for ownership of broadcasting facilities.

Legitimacy of Private Ownership

The concept of private ownership of productive facilities is strongly supported in the United States. This support is based on the view that any U.S. citizen can raise

money and set up his or her own business. The hard work and intelligent decision making of the business owner is rewarded with growth of the business and economic success. The American business environment contains a large set of businesses ranging in size from tiny home-based businesses to gigantic multinational corporations. Many of these businesses are small businesses. All of these businesses, including the tiny ones, have the fundamental opportunity to grow and develop into larger, and presumably more profitable, businesses. This situation creates a basic American opportunity for self-improvement. A recent example of this is the growth of microcomputer manufacturers from backyard garage firms to large corporations in the 1980s and 1990s.

Private Ownership in Broadcasting

The current ownership situation in broadcasting is more restricted than it is in the American economy as a whole. Very large broadcasting companies are replacing small mom and pop stations and medium sized broadcasting companies. This concentration is creating a situation where the small entrepreneur cannot enter the broadcasting field.

We have a situation in broadcasting where there are almost no small entrepreneurs operating over-the-air facilities. This impacts the legitimacy of the private ownership of broadcasting because we have lost the mechanism of the tiny company growing up to become a large company. The tiny companies are shut out of broadcasting. I cannot go out and start my own tiny station and work my way up to become a big broadcaster. This is not right at all. Why should I be excluded from the broadcast business?

Eliminating the Ownership Caps

If the ownership caps on broadcasting are removed, this concentration with its resultant loss of legitimacy will only get worse. This raises the very nasty question: Why

should they (the big companies) have access to broadcasting while my tiny company cannot have any access at all? Is this proper in the Land of the Free?

In the past, the lack of access was defended by the Commission and the courts on the basis that there is a shortage of broadcast frequencies available. This shortage distinguished broadcasting from newspaper and magazine publishing where no shortage of "transmission capacity" exists. However, the validity of this shortage argument is fading with the technical development of the millimeter and micrometer wavelengths. Simple arithmetic shows that this upper region of the electromagnetic spectrum has a gigantic transmission capacity where a large number of people could own broadcast stations without impacting other uses of these frequencies. In the case of neighborhood and community broadcasting, the transmitting station could use a rotating lighthouse type millimeter wave radio beam that would distribute packets of digital program material that would be buffered and assembled by each receiver into a continuous program.

Much of the impetus for removing the ownership caps is coming from the court decisions that view ownership regulations as unconstitutional restrictions of corporate activity and corporate freedom of speech. The Commission has only a limited capability to resist such court decisions even though they are damaging to the legitimacy of the American private enterprise system and the legitimacy of the American political system. However, there are additional alternative mechanisms that can be used to block consolidation in set-aside frequencies for small entrepreneur commercial broadcasters.

Blocking the Technical Means for Consolidation

Consolidation of broadcasting is dependent on the extensive use of automation (computerized) technology and the interconnection of broadcasting outlets. Blocking the use of this technology would greatly inhibit consolidation.

A low-power commercial broadcasting service that is restricted to manual operation would be highly resistant to consolidation even without ownership caps. This resistance would be further increased if the use of remotely delivered program material were banned. It is highly unlikely that any consolidator would want to operate thousands of low-power fully manned broadcast stations.

This commercial service would be appealing to entrepreneurs that want to start in broadcasting. Each of these stations would serve a very local market with neighborhood programming and advertising. The local low cost advertising would provide advertising opportunities for small firms that are currently priced out of broadcast advertising.

Suggested Actions

The Commission should engage in a detailed political science analysis of the impact of removal of the ownership caps on the legitimacy of government and business. In addition, the Commission should proceed with alternative means for providing opportunities for very small broadcasters. This can include a frequency band for manually operated low-power commercial broadcasters, a citizens broadcasting band (CBB), and open-microphone neighborhood broadcasting supported by the consolidated broadcasters.

Respectfully submitted,

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